

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 00 CR 84
)	
EDDIE CARROLL,)	
)	
Defendant.)	

ORDER

Defendant Eddie Carroll, although represented by counsel, has filed a pro se Motion to Reverse Judgment of Conviction For and New Trial [sic].

Defendant asserts that although he was indicted for possessing a firearm “in and affecting interstate commerce,” the offense, if any, that he was convicted of was possessing a firearm that had previously been shipped in interstate commerce. It is unclear to the court whether defendant is making a variance argument, that he was convicted of something he was not indicted for, or an argument that possession of a firearm which has previously travelled in interstate commerce is an offense with an insufficient connection to interstate commerce to provide a basis for this court’s jurisdiction, or whether he is making both these arguments.

As the government points out, the law is clear that proof of possession of a firearm that has previously moved in interstate commerce by a defendant who is a convicted felon satisfies the statute.

United States v. Horton, 503 F.2d 810, 813 (7th Cir. 1974). The court sees no basis for revisiting the issue, decided and/or assumed by countless courts, that the nexus to interstate commerce shown by such possession is sufficient to confer federal jurisdiction. Since possession of a firearm that has previously travelled in interstate commerce was found by Congress, in enacting this statute, to affect interstate commerce sufficiently to confer federal jurisdiction, defendant's variance argument also fails. The statute in essence declares that possession of a firearm that has previously moved in interstate commerce affects interstate commerce. This conclusion appears to the court to be plainly correct and to make clear that there was no variance in this case.

Defendant has also filed a Motion to Dismiss Enhancement as "Armed Career Criminal," Due to Incorrect Application of the Federal Sentencing Guidelines, and Due to Violation of Apprendi Rights." The court has previously ruled on this issue, and is not convinced that its prior ruling was inconsistent with controlling Seventh Circuit precedent or otherwise incorrect. This motion is denied.

ENTER:

JOAN B. GOTTSCHALL
United States District Judge

DATED: March 27, 2001